[President]

Before putting the motion to vote, I need only say that I regard this motion as an exhortation to the Chair to use every means to prevent the likelihood of the recurrence of such events as have disfigured this city during the last two or three days. As I happened to do my office work on the premises during the evening, it was given to me to listen to the various warcries that were uttered by the mob, and also to see somewhat of the behaviour of the crowd. Enquiries have been made as to the persons who were leading the crowd and the persons who were inciting the mob. Those names and the facts will be sifted with the care which the circumstances deserve. All that can be said at the moment is that no effort will be spared to bring the culprits to book, in the terms of the motion before the House.

The motion was put to vote and carried *nem con.*

The Assembly adjourned for lunch at 1-18 p. m., and reassembled at 2-15 p. m.

LEGISLATIVE BUSINESS—(*contd.*)

THE TRAVANCORE COMPANIES BILL.—(*contd.*)

Clause 347

MR. JOSEPH VITHAYATHIL (*Kunnatnad* cum *Parur*): Sir, I beg to move the following amendment:—

Add the following Proviso to sub-clause (1)

"Provided that the provisions of this sub-section shall not apply to a banking company incorporated before the commencement of this Regulation till after the expiry of two years from the commencement of this Regulation."

The object of the amendment is to provide for reasonable time being given to the existing banking companies to comply with the requirement of the section, namely, that a minimum cash balance must be maintained always and that the banking concern should submit monthly statements of such cash balance.

Sir, under clause 346 which provides for a reserve fund being maintained, provision is made for giving the present concerns two years time for the building up of such reserve funds. I do not see why such a provision should not be made in regard to clause 347. Unless this amendment is accepted, on the date on which this Bill becomes law all the present banking concerns in the State will have to maintain the minimum cash balance prescribed by this section. I do not think that many of them will be in a position to do it unless they are allowed some time. Now-a-days, it is very difficult to attract fresh deposits; in fact, depositors are fast withdrawing their deposits from most of these banks. Further, as a result of the working of the Debt Relief Regulation, banks can realise their dues only in instalments. Therefore, it is only reasonable that some time is allowed to these banks to satisfy the requirements of this clause. I may say that I am not very keen about two years' time being allowed; but certainly, they should be allowed some reasonable time.

LIBRARY ARCHIVES Kerala Legislative Assembly

MR. N. RAMAKRISHNA PILLAI (*Vaikom cum Kottayam*): I second the amendment proposed. It will be realised, Sir, that there are about 300 banks now functioning in the country. Most of them may not have provided themselves with the cash reserve required by this clause. This is a new provision which will come into operation as soon as this Bill becomes law.

I may also point out to the House that the clause imposes a penalty on the Directors of Banks which are not able to satisfy the provision contained in this clause. On account of the economic depression, and owing to certain other well-known reasons which it is not necessary for me now to dilate upon, some reasonable time should be given to these banks to provide themselves with the cash balance in question. It has to be noted that there is no provision to exempt any of these banks from the operation of this clause nor is there provision to extend the time; in any case. Government have not reserved to themselves such powers. It seems to me therefore necessary to adopt the provision proposed by the amendment.

MR. PUTHUPALLI S. KRISHNA PILLAI (*Legal Remembrancer to Government*): I oppose the amendment. In the case of the reserve fund provided for in Clause 346 the percentage that has to be set apart is twenty per cent. of the profits of the company; that is the reason why that clause allows two years time. It was considered that it would cause some inconvenience or hardship to some of the present banking concerns if, all on a sudden, on the date on which this Bill becomes law, they are asked to show a reserve fund of no less an amount than twenty per cent. of their profits. But in the case of the minimum cash balance dealt with in the present clause, the Select Committee did not think of allowing any time for the simple reason that the prescribed percentage of cash balance is very very small, too small to inconvenience any Bank however limited its resources may be. Moreover, Sir, the common rule of banking, the invariable practice in all banking institutions worth the name, is always to have a certain amount with them as cash balance. Therefore, this clause will not inconvenience any of the banks conducted on proper lines. Furthermore even this small cash balance need not necessarily be kept idle. It is available to the bank, and they can draw upon it whenever necessary.

Sir, this provision is intended to safeguard the interests of the depositors, so that when a bank fails and goes into liquidation the depositors may get at least a few pies in their rupee. If, as proposed by the amendment, even for this small amount we allow two years' time, we would only be enabling improper and bad institutions to do what they can to the detriment of the depositors.

With these words I oppose the amendment.

MR. S. ICHATTANATHA KARAYALAR (*Pattanapuram cum Shencotta — Deputy President*): Sir, I also oppose the amendment. Sir, I shall add only a few words to what the previous speaker has said. I shall just make the position clear by applying the provisions of this clause to a concrete instance. Take the case of a bank which has a deposit of, say

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[Mr. S. Chattanatha Karayalar.]

one lakh of rupees as current deposit, which is called demand liability in this Bill. All that this clause requires is that that bank should maintain a cash reserve of Rs. 5,000. The liability of one lakh of rupees is to be met on demand at any time. Sir, if a bank having a current deposit of a hundred thousand rupees cannot maintain a cash reserve of at least Rs. 5,000. The bank cannot be said to be in a position to meet its liability and that bank does not deserve to exist. That is the principle which has been embodied in this clause; and in the nature of things, it does not permit of any exception being provided for. Sir, I oppose the amendment on this ground.

The amendment was put to vote and lost.

The question that Clause 347 do stand part of the Bill was put to vote and carried. The clause was added to the Bill.

[At this stage the President vacated the chair and the Deputy President presided.]

Clause 348.

MR. K. T. THOMAS: Sir, I beg to move the following amendment:—

In sub-clause (1), line 1, between the words "form" and "any", add "or hold shares in", and in line 2, between the word "company" and the word "formed" insert the words "of its own."

As I understand the clause as it stands, it says that no banking company shall form any subsidiary company or hold shares in any other subsidiary company except a subsidiary company of its own. If the clause is read as amended by me, it would say that no banking company shall form or hold shares in any company except a subsidiary company of its own formed for the purpose of undertaking.....A reference to sub-clause (12) of clause 341 will show that it is permissible for a banking company to take or otherwise acquire and hold shares in any other company having objects similar to those of the company. In this clause we are dealing with subsidiary companies which may be floated by banking concerns. That is the reason why I move for the adoption of an added restriction which will be clear on the face of it when the clause is read as proposed by me.

With these words I move the amendment.

MR PUTHUPALLI S. KRISHNA PILLAI: I oppose the amendment. The one advantage that the adoption of the amendment would have is that, by adopting it, the present clause will exactly correspond to Section 277 (*m*) of the Indian Companies Act. Now, Sir, in referring to it the draftsman of that clause as also the member in charge of that Bill in the book on the Indian Companies Act by Sen and Sirkar.

> "It is not clear as to what this Section aims at; the language is rather confusing."

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Therefore, Sir, in drafting the present clause we have attempted to make it clear; the confusion has been avoided. The clause itself has been split into two for that purpose. My friend's amendment would only make the clause as confused as the corresponding British Indian provision has been described to be by the draftsman himself. Certainly, we do not want to be taken back to the confusion in which the British Indian Law in this respect still remains. Even apart from that, on this question of clarity and precision, in the clause as it stands is unexceptionable.

Sub-clause (1) says—

"A banking company shall not form any subsidiary company except a subsidiary company formed for the purpose of undertaking and executing trusts, undertaking the administration of estates as executor, trustee or otherwise and such other purposes set forth in Section 341 as are incidental to the business of accepting deposits of money on current account or otherwise."

Sub-clause (2) says—

"Save as provided in sub-section (1) a banking company shall not hold shares in any company whether as pledgee mortgagee or absulute owners of an amount exceeding forty per cent. of the issued share capital of that company".

The amendment deals with sub-clause (1). These two ideas are put together and made to form the subject of one clause in the British Indian Act and that has been said to have led to some confusion. The learned mover wants to have a confused provision rather than the clearly drafted clause. I oppose the amendment.

MR K. T. THOMAS: I may be permitted to made an observation in regard to that. By Section 348 as it stands a banking company is prohibited from forming a subsidiary company. The purpose of my amendment is not to bring in any confusion as the honorable Legal Remembrancer would put it as obtains in British India. There is absolutely no question of confusion when we say - not only shall the banking concern not form a subsidiary company but shall not also hold shares in a subsidiary company other than its own. It might be possible for a banking concern to hold shares in a subsidiary company floated by another banking company. The only question for the House to decide is whether it should be left to the option of a banking company not only to form a subsidiary company but also to hold shares in a subsidiary company not its own. Of course the formation of a subsidiary company is prohibited. But what about the holding of shares in a subsidiary company of another banking company. To say that the draftsman of the British Indian enactment himself did not know, is I am afraid, which does little credit to honourable N. N. Sircar an observation. The fact remains that after considerable discussion in the Indian Assembly this provision has been put on the Statute. To say that even the term "or holds shares in a subsidiary company except a subsidiary company of its own" if put in would result in any confusion is to forget the fact that there is absolutely no scope for confusion so far as legal minds are

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concerned. The question for this House to consider therefore is—should we prohibit not only the formation of a subsidiary company but should go further and prohibit the holding of shares by a banking company in a subsidiary company not its own. My submission is that there is absolutely no room for any apprehension regarding a possible confusion. Hence I commend the amendment for the acceptance of the House.

MR. PUTHUPALLY S. KRISHNA PILLAI: I may be permitted to offer a word by way of personal explanation. What I meant to say was that there is some confusion likely to arise from the clause as it stands in Section 277 (*m*) and that those who were in charge of the Bill at the time it was discussed in the Indian Legislative Assembly have themselves acknowledged that it is a little bit confusing. All that I can say in regard to it is that they do not hesitate to confess their own mistakes, because mistakes after all are common to all people and when there is a mistake it is always better to honestly confess it. They have done it and I brought it to the notice of the House. The idea contained in this clause is that a banking company shall not form a subsidiary company. What is a subsidiary company? For that we must refer to Section 2, sub-clause (2) where a subsidiary company and a holding company are defined. Section 2, sub-clause (2) says—

> "where the assets of a company consist in whole or in part of shares in another company, whether held directly or through a nominee and whether that other company is a company within the meaning of this Regulation or not, and
>
> (*a*) the amount of the shares so held is at the time when the accounts of the holding company are made up more than fifty per cent of the issued share capital of that other company or such as to entitle the company to more than fifty per cent. of the voting power in that other company, or
>
> (*b*) the company has power (not being power vested in it by virtue only of the provisions of a debenture trust deed or by virtue of share issued to it for the purpose in pursuance of those provisions directly or indirectly to appoint the majority of the directors of that other company,
>
> that other company shall be deemed to be a subsidiary company within the meaning of this Regulation, and the expression 'subsidiary company' in this Regulation means a company in the case of which the conditions of this sub-section are satisfied and includes a subsidiary company of such company:

A holding company is a company which holds a subsidiary company.

That is the meaning ascribed to a subsidiary company. Sir, no banking company shall form a subsidiary company, that is, another company where the forming company or the bank shall hold more than 50 per cent. of the shares, except a subsidiary company formed for the purpose of undertaking and executing trusts, undertaking the administration of estates and such other purposes set forth in Section 341. That is the only case of a subsidiary company which can be formed by a bank. It necessarily implies the holding of more than 50 per cent

LIBRARY ARCHIVES Kerala Legislative Assembly

of the shares or the holding of shares which will give votes to the extent of more than 50 per cent. It is said that only a subsidiary bank of the sort mentioned herein shall be started by a bank. Now I may point out for the information of the House a case where the absence of such a provision might be used prejudicially to the interest of the customers or depositors of the bank, In British India banks have formed subsidiary companies for prospecting for minerals, for carrying on insurance work, for carrying on chitties and for carrying on ever so many other businesses having absolutely no connection with banking business. The pre-eminent idea contained in this enactment is that the money belonging to the bank should not be allowed to be locked up in concerns which could not be easily dealt with. Therefore it is said that a banking company shall not form subsidiary companies except when they are formed for the purpose of a business similar to the other, carrying on any trust etc., That I thought was very clear and that is what the framers of Section 277 (m) of the British Indian Act wanted to lay down. Sub clause (2) will make the position still more clear. It lays down a further restriction.

The amendment was put to the vote of the House and declared lost.

The question that Clause 348 stand part of the Bill was put and carried.

The clause was added to the Bill.

Clauses 349 to 359.

The question that Clauses 349 to 359 do stand part of the Bill was put and carried.

The clauses were added to the Bill.

Clause 360

MR. K. T. THOMAS: I move that in Clause 360 between the number "360" and the word "The" insert "(1)."

This is only a verbal amendment.

MR PUTHUPALLI S. KRISHNA PILLAI: I accept the amendment. It is due to a mistake in printing.

MR. KOTTALIL P. ABRAHAM: My amendment also is to the same effect.

The question that Clause 360 stand part of the Bill was put and carried.

The clause was added to the Bill.

Clauses 361 and 362.

The question that Clauses 361 and 362 do stand part of the Bill was put and carried.

The clauses were added to the Bill.

Table A.

The question that Table A do stand part of the Bill was put and carried.

Table A was added to the Bill.

LIBRARY ARCHIVES Kerala Legislative Assembly

Table B.

MR. KOTTALIL P. ABRAHAM: I move that in Table B First Schedule, in line 5 omit "ch. c." and put instead "as. p."

This is a simple amendment. In the rupee column it is put as Bh. Rs. and therefore I think it is more convenient and proper to have as fractions thereof annas and pies rather than chuckrams and cash as now found in the Bill.

The amendment fell through for want of a seconder.

MR. JOSEPH VITHAYATHIL: I move—"In the First Schedule, Table B. Part I, No. 5, add the following :—

"Or the statement required to be filed by a banking company under Section 347, sub-section (1)"

This relates to the question of the payment of filing fees for statements. Under Section 347 (1) every banking company has to file a statement before the Registrar every month with regard to the maintenance of the cash reserve. Unless exemption is given in the case of such statements, a filing fee of Rs. 5 will have to be paid by banks every month. I submit that it will be too hard to ask banking companies, especially small banking companies, to pay a filing fee of Rs. 5 every month over and above other filings fees to be paid by them. So this statement should be exempted as in the case of some other statements required to be filed under the Regulation. With the amendment the clause would read thus—

"For filing any document by this Regulation required or authorised to be filed, other than the memorandum or the abstract required to be filed with the Registrar by a receiver or the statement required to be filed with the Registrar by the liquidator in a winding up *or the statement required to be filed by a banking company under Section 347 sub-section 1...* B. Rs. 5'

This is the purpose that is sought to be achieved by my amend' ment.

MR. N. RAMAKRISHNA PILLAI: I second it.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, I oppose the amendment. In this respect we have not made any attempt to depart from the provisions contained in the British Indian Act. To say that there are small banks carrying on very small business which cannot afford to pay even five rupees, will be a disgrace even to the name, bank.

To say that there are such small banks who cannot afford to pay Rs. 5 for filing a statement does not reveal a happy state of affairs. It is the object of this bill to discourage the continuance of such institutions. We want only banks which can afford to pay such small amounts and be regular in their dealings. There is absolutely no use in entertaining this sort of sympathy towards such banks. Sentimental considerations are quite out of place in a matter like this. Therefore, I oppose the amendment.

MR. JOSEPH VITHAYATHIL: It is not a question of the banks' inability, to pay Rs. 5 every quarterly, half yearly or annually. According to this provision, it becomes necessary for banks to pay out Rs. 5 at every time a statement is filed. My question is why should a bank be

LIBRARY ARCHIVES Kerala Legislative Assembly

asked to pay Rs. 5 every month to the Sirkar, over and above the quarterly, half yearly, and annual payments. No doubt it may be a question of getting revenue.

MR. PUTHUPALLI S. KRISHNA PILLAI: Then, if it is a matter affecting revenues, this amendment becomes out of order. But on the merits, my submission is that no case has been made out for the non-payment of Rs. 5.

The amendment was put to vote and lost.

DEPUTY PRESIDENT: The question is that Table B do stand part of the I Schedule.

The motion was put to vote and carried.

The question that Schedules II, III and IV do stand part of the Bill was put and carried.

The motion that the Preamble do form part of the Bill was then put and carried.

The motion that the short title do stand part of the Bill was then put and carried.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir I move that under Section 1, for the figures 11, the figures 1114 be substituted.

MR. K. MADHAVA KURUP (*Ag. Registration Director and Registrar of Joint Stock Companies*): I second it.

The motion that clause 1 as amended do form part of the bill was put and carried.

MR. PUTHUPALLI S. KRISHNA PILLAI: I beg to move that the Bill be now paseed.

MR. K. MADHAVA KURUP: I second it.

The Bill was passed.

THE TRAVANCORE CRIMINAL LAW AMENDMENT BILL.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, I beg to present the report of the Select Committee on the Travancore Criminal Law Amendment Bill and beg to move that the Bill as reported be taken up for consideration.

MR. K. MADHAVA KURUP. I second it.

The question that clause 1 do stand part of the Bill was then put and carried.

Clause 2.

MR. C. JEBAMONY NADAR: Sir, I move to omit clause 2.

MR. PUTHUPALLI S. KRISHNA PILLAI: On a point of order, Sir. Such a motion is out of order and there are many Rulings to support it.

DEPUTY PRESIDENT: I agree with the point of order raised by the Legal Remembrancer. Under Standing Order 25, sub-clause (2) an amendment which has merely the effect of a negative vote cannot be moved. Therefore, I rule it out of order.

[At this stage the President resumed the Chair.]

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